

**AGENDA ITEM 39
REPORT TO COUNCIL**

26TH NOVEMBER 2008

**REPORT OF THE
INTERIM CHIEF
EXECUTIVE**

IMPROVING DECISION MAKING – PLANNING COMMITTEE

BACKGROUND

At Council on the 15th October 2008 Members agreed to the following amendments to the Cabinets recommendations relating to Agenda Item CAB 81/08, Alterations to the Constitution – Decisions made Contrary to Officer Recommendations and Informal Hearings.

Resolution 1

The alterations to the constitution and planning protocol which refer to officer's attendance at Appeals (where Members have refused applications against officer recommendations) be approved.

Resolution 2

The necessary changes to the Constitution be made to incorporate the new protocol as in Resolution 1.

Resolution 3

The change in protocol to defer the decision notice for three weeks whilst officers examine the reasons for refusal or acceptance against Planning Officers' advice are examined, be deferred for a full background report to be presented to Council at a future Council Meeting.

Resolution 4

A review be undertaken one year after the implementation of the changes to the Constitution and the planning protocol. This review to be undertaken by the Head of Planning and the Planning Committee in consultation with the Cabinet Member for Regeneration and Transport. The findings and any subsequent recommendations will be reported to Cabinet and acted upon within a timeframe agreed by Cabinet and Planning Committee.

This report gives further details of the proposal as required in Resolution 3.

1. The performance of the Planning Committee has been under review for some time and in an attempt to improve decision making, particularly relating to the procedures associated with those decisions made contrary to officer recommendations, a new procedure has been identified which is designed to give an opportunity for further consideration, by officers and Members, and to reduce the risk both in terms of reputation and potential costs.

- 2 During 2007/8 there have been 24 decisions made contrary to officer recommendation, representing 16.33% of the total number of decisions made at committee. Of those 17 have been the subject of an appeal, and of the 15 appeals determined to date, PINS have allowed 9 resulting in a performance of 60%, the bench mark of a good local authority being 30%. It is perfectly acceptable for Members to appropriately challenge officer recommendations and there are often subjective assessments on issues of design. However, the crux of the matter remains that if Members wish to make a decision against officer recommendation there has to be justifiable planning grounds to do so that can be evidenced.
- 3 The proposed protocol will give an opportunity for Members to try a new approach to decision making which will allow time for further consideration of those decisions where officers determine that there are insufficient planning grounds, or evidence, to support the Planning Committees decision.

Proposed Protocol

- 4 Following consideration of a planning application and a full debate by Members and officers the committee will be asked to make a decision based on the evidence placed before them. In exceptional circumstances if the committee is still minded to approve or refuse the application contrary to officer recommendation and contrary to the advice of the Head of Legal Services that the reasons provided appear unreasonable or unsustainable on appeal, the decision must be either 'minded to approve to minded to refuse the application'.
- 5 Following the meeting, Planning and Legal officers in consultation with the Corporate Director of Development and Neighbourhood Services and/or the Director of Law and Democracy will further investigate issues raised and whether the conditions/reasons are reasonable and sustainable. If it considered that they are, the decision notice will be issued accordingly. If not, the Planning Committee members will be notified, giving them an opportunity to substantiate their reasons for the interim decision and seek further information as they deem appropriate prior to the application being considered at the next Planning Committee meeting who will make a final determination.
- 6 This proposal will operate for a 12 month trial period and will demonstrate a mature approach in attempting to improve the authority's performance. It will not remove or dilute the democratic rights of committee members to determine a decision as they think fit but allows further time for consideration, reflection and investigation.

RECOMMENDED that:-

1. The necessary changes to the Constitution be made and be subject to the review process previously agreed at Resolution 4.
2. The Planning Code of Conduct be updated to incorporate the Protocol.